THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 18165 of 2005

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Dated : 18.08.2005

Between:

Pasupuleti Lakshmaiah S/o P.L.N. Prasad
R/o G. M. Diagnostics, Erragadda, Hyderabad

..... PETITIONER

AND

The Revenue Divisiional Officer, Ongole, Prakasam District and another.

……**RESPONDENTS**

ORDER:

This writ petition is filed seeking a declaration that the notice, dated 30.07.2005, issued by the first respondent-Revenue Divisional Officer, Ongole is arbitrary and illegal.

The case of the petitioner is that he is the absolute owner of the land admeasuring Ac.0.70 cents in Sy.No. 897 situated at Bodduvanipalem, Korisapadu Mandal, Prakasam District and he was also granted pattadar passbook and the title deed book in respect of the said land. While so, the then Mandal Revenue Officer, Korispadu Mandal issued a notice to the petitioner for conducting an enquiry on the objections said to have been raised by the second respondent and questioning the same, the petitioner has filed W.P.No.14879 of 1999 and this court, while allowing the said writ petition, directed the Mandal Revenue Officer to file an appeal before the Revenue Divisional Officer. However, the second respondent has not filed any such appeal before the Revenue Divisional Officer, but filed a suit in O.S.No.85 of 2003 on the file of Principal Junior Civil Judge, Addanki, for the relief of declaration and injunction against the petitioner and the same is pending before the said Court.

Meanwhile, the second respondent submitted an objection petition on 24.01.2005 to the first respondent suppressing the fact of pendency of civil suit and based on the same, the first respondent issued the impugned notice dated 30.07.2005 to the petitioner by fixing the date of hearing on 18.08.2005 at 11.00 A.M. Hence this petition.

The grievance of the petitioner is that having availed the appropriate remedy by approaching the civil Court, the second respondent cannot approach the revenue authorities and the first respondent issued the impugned notice without any jurisdiction and the same is liable to be set aside.

On a reading of the impugned notice it is clear that it does not contain any particulars enabling the petitioner to represent his case. The first respondent should have given the details of the petition filed by the second respondent. In the absence of any such particulars, the petitioner has no opportunity to represent his case on the date of enquiry fixed by the first respondent and therefore, the impugned notice is liable to be set aside.

Accordingly, the impugned notice dated 30.07.2005 is set aside and the writ petition is allowed. However, the first respondent can conduct the enquiry after giving a detailed notice to the petitioner and after affording reasonable opportunity to him to put forth his case. No costs.

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18.08.2005

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